

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of)
)
Amendment of Section 90.75(c)(10))
of the Commission's Rules and)
Regulations to Permit Private)
Carrier Paging Licensees to)
Provide Service to Individuals)

RM-8017

To: The Commission

COMMENTS OF PACTEL PAGING

PacTel Paging ("PacTel"), by its attorneys, hereby submits its Comments to the Association for Private Carrier Paging Section of the National Association of Business and Educational Radio, Inc.'s ("APCP") Petition for Rulemaking to permit private carrier paging licensees to provide service to individuals ("Petition").

I. Introduction

PacTel is a licensee under Part 90 of the Commission's Rules for one-way private carrier paging ("PCP") frequencies. PacTel has established several wide area 929 MHz private carrier paging systems in California, Nevada, and Arizona, and is authorized for additional 929 MHz private carrier paging systems in Georgia and Florida. PacTel presently serves in excess of 70,000 paging units over its PCP systems, making it one of the largest providers of PCP service in the nation.

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PacTel completely supports APCP's Petition to permit PCP operators to provide service to individuals. Lifting the individual user restrictions would significantly increase the paging service options of those users to access communications services via PCP systems. Relaxation of the eligibility requirement would also relieve the burden imposed on PCP operators to police the provision of PCP services over their systems to avoid violating the Commission's eligibility requirements as to individual users.

II. Removal of Eligibility Criteria for Individual Users Increases Paging Service Options and Promotes Efficient Spectrum Use

The Commission has previously declined to adopt modifications removing the prohibition against PCP operators serving individuals based upon its findings that individuals did not have communications needs that could not be satisfied within existing options.^{1/} Although individuals located in major metropolitan areas once may have had the option of receiving service from common carrier paging operators, individual users now face limited choices for paging services because there are no unlicensed common carrier channels for new entrants or expansion in most of the top metropolitan markets. For example, there are currently no common carrier wide area channels available to build

^{1/} See Report and Order, In the Matter of Amendment of Part 90 of the Commission's Rules to Expand Eligibility and Shared Use Criteria For Private Land Mobile Frequencies, PR Docket No. 89-45 (Released January 30, 1991) at para. 15.

new systems to serve subscribers in Southern California or the Northeastern United States. If an individual seeks service in any one of those areas, he would be restricted to the existing common carrier systems, which are severely loaded and many are experiencing significant delays in paging message delivery as a result. The communications needs of individuals may not be satisfied within existing options in those areas. In more remote markets, individual mobile communication requirements have historically not been fully met due to limited service options. Therefore, where spectrum is available, PCP operators should not be prohibited from fulfilling individuals' communications needs due to regulatory constraints outdated by virtue of the realities of the existing paging market.

The Commission should not be concerned with channel crowding once individual users are allowed to seek out PCP systems. A PCP operator is in the best position to judge the placement of users on its system for system capacity. Additionally, the presence of competing radio common carriers in many of the markets in which PCP systems operate is the best incentive for a PCP licensee not to jeopardize the quality of communications over its system by engaging in inefficient use of the spectrum. The Commission, therefore, should not hesitate to extend PCP services to individual users in the competitive environment in which paging systems operate.

III. PCP Operators Should Be Relieved from Policing Individual Use of Private Carrier Paging Services

Increasing numbers of paging subscribers are buying paging equipment and services via indirect distribution channels (such as agents, resellers and retail stores).^{2/} However, PCP licensees face significant risks in utilizing these indirect distribution channels for the sale of PCP paging services. Although a PCP licensee can and does require through its contracts that indirect distribution channels sell PCP service solely to business users, the PCP licensee is unable to effectively monitor whether the subscribers being added are purchasing the service for business or other purposes. As is often the case, the user is an individual purchasing the service for mixed business and personal use. Removal of the eligibility restriction for individuals would alleviate the burden on PCP operators who are faced with insurmountable monitoring difficulties to ensure that sales are made solely to qualified users. PacTel urges the Commission to do away with eligibility requirements which subject a PCP licensee to penalties for paging activities over which it has no direct control, and which may in

^{2/} By some estimates, the paging market is growing 20-25% annually on a base of over 11 million units in service. By industry estimates, the current penetration rate for paging services is approximately 5% and is anticipated to grow to 10% in the next 5-10 years. Most of this new growth will come from the new indirect distribution channels.

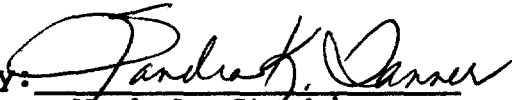
some circumstances force a licensee to seek less attractive distribution channels for marketing its services and products.

IV. Conclusion

PacTel respectfully requests that the Commission grant APCP's Petition for Rulemaking and expeditiously establish a Notice of Proposed Rulemaking lifting the prohibition against PCP licensees serving individuals.

Respectfully submitted,

PACTEL PAGING

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CERTIFICATE OF SERVICE

I, Lois L. Trader, hereby certify that on this 23rd day of July, 1992, I caused a copy of the foregoing **COMMENTS OF PACTEL PAGING** to be sent by first class, U.S. mail, postage prepaid to the following:

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